

September 6, 2005

## Rule Proposal

### COMMUNITY AFFAIRS

### DIVISION OF CODES AND STANDARDS

### DIVISION OF FIRE SAFETY

#### Uniform Construction Code; Uniform Fire Code

#### Tent, tensioned membrane structures, greenhouses and outdoor combustible mazes

#### Proposed Amendments: N.J.A.C. 5:23-2.14, 3.1 and 3.14; 5:70-2.7

Authorized by: Susan Bass Levin, Commissioner, Department of Community Affairs

Authority: N.J.S.A. 52:27D-124 and -198.

Proposal Number: PRN 2005-299

Calendar: See Summary below for explanation of exception to calendar requirement.

Submit written comments by: November 5, 2005 to:

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The agency proposal follows:

### Summary

This proposal, if adopted, would shift the enforcement responsibilities from the construction official to the fire official for all tents other than those involving structural considerations. Additionally, the proposed amendments would relocate the construction permitting requirements for these types of structures from the building subcode, N.J.A.C. 5:23-3.14 to the administrative requirements at N.J.A.C. 5:23-2.14 and moves the temporary greenhouse requirements to the commercial farm building section at N.J.A.C. 5:23-3.2(d).

The proposed amendments outline permitting requirements for tents, tensioned membrane structures, and outdoor mazes. The proposed amendments specify that tents, tensioned membrane structures, and canopies require construction permits if they: are greater than 140 feet in any dimension or greater than 16,800 square feet in area, remain in place for 180 days or more, are used or occupied between December 1 and March 31, have a permanent anchoring system or foundation, or contain platforms or bleachers greater than 11 feet in height. The proposed amendments also specify that tents and tensioned membrane structures require a fire permit if they: are greater than 900 square feet and more than 30 feet in any dimension but 16,800 square feet or less in area and 140 feet or less in any dimension.

The proposed amendments define "outdoor maze" as attractions that lack roofs and are designed to disorient patrons, reduce vision, present barriers, or otherwise impede the flow of traffic and do not consist solely of corn stalks, trees, or similar living rooted plants. Under the proposed amendments, outdoor mazes that are greater than six feet in height or contain electrical equipment would require a construction permit. Outdoor

combustible mazes that have vertical dimensions less than six feet in height and do not contain electrical equipment would require a fire permit.

As the Department has provided a 60-day comment period on this notice of proposal, this notice is exempted from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a)5.

#### **Social Impact**

The proposed amendments would have a positive social impact in that they would provide a clear and reasonable distinction between those tents and related structures that are subject to the Uniform Construction Code, by reason of structural concerns, and those that are subject to the Uniform Fire Code because they do not involve structural concerns but still involve fire safety concerns.

#### **Economic Impact**

The change in jurisdiction for the issuance of permits for certain small tents and related structures will not have material economic impact, since the fees that would be charged for the inspection of such structures under each program would be similar.

#### **Federal Standards Statement**

No Federal standards analysis is required because these amendments are not being proposed in order to implement, comply with, or participate in any program established under Federal law or under a State law that incorporates or refers to Federal law, standards, or requirements.

#### **Jobs Impact**

The Department does not anticipate that any jobs will be created or lost as a result of these proposed amendments.

#### **Agriculture Industry Impact**

The Department does not anticipate that the proposed amendments would have an impact on the agricultural industry.

#### **Regulatory Flexibility Statement**

"Small businesses," as defined by the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. would be required to obtain permits from the appropriate enforcing agency, be it construction code or fire code, depending on the nature of the structure, in the same manner as any other persons or entities undertaking similar construction. For reasons of public safety, all persons or entities undertaking similar construction must comply with the same permit and compliance requirements.

#### **Smart Growth Impact**

The Department does not expect that it would have any impact upon either achievement of "smart growth" or implementation of the State Plan.

**Full text** of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

#### **5:23-2.14 Construction permits – when required**

(a) It shall be unlawful to construct, enlarge, repair, renovate, alter, reconstruct or demolish a structure, or change the use of a building or structure, or portion thereof, or to

install or alter any equipment for which provision is made or the installation of which is regulated by this chapter, or to undertake a project involving lead abatement in accordance with N.J.A.C. 5:17, without first filing an application with the construction official, or the appropriate subcode official where the construction involves only one subcode, in writing and obtaining the required permit therefor.

[1. Exception: No permit shall be required for ordinary maintenance as defined in N.J.A.C. 5:23-1.4 and 2.7.]

(b) The following are exceptions from (a) above:

1. – 3. (No change.)

4. **Exceptions to [P] permit requirements for [tents and membraned structures shall be in accordance with N.J.A.C. 5:23-3.14(b)20ii. A temporary greenhouse meeting the criteria of N.J.A.C. 5:23-3.14(b)20ii(4) shall not require a permit except as otherwise provided in N.J.A.C. 5:23-3.14(b)20ii(5).] temporary structures, tents, tensioned membrane structures, canopies, and greenhouses are as follows:**

**i. Temporary structures: A construction permit is not required for the erection, operation or maintenance of any temporary structures (excluding tents, tensioned membrane structures, canopies, and greenhouses) covering an area less than 120 square feet, including all connecting areas or spaces with a common means of egress or entrance and which remain in place for less than 180 days;**

**ii. Tents, tensioned membrane structures, and canopies: A construction permit is not required for tents, tensioned membrane structures, and canopies that meet all of the criteria in (1)-(5) below. Tents, tensioned membrane structures, and canopies meeting the following criteria shall be subject to the permitting requirements of the Uniform Fire Code (N.J.A.C. 5:70-2.7).**

**(1) The tent, tensioned membrane structure, or canopy is less than 140 feet in any dimension and less than 16,800 square feet in area whether it is one unit or is composed of multiple units;**

**(2) The tent, tensioned membrane structure, or canopy remains in place or will remain in place for fewer than 180 days;**

**(3) The tent, tensioned membrane structure, or canopy is used or occupied only between April 1 and November 30;**

**(4) The tent, tensioned membrane structure, or canopy does not have a permanent anchoring system or foundation; and**

**(5) The tent, tensioned membrane structure, or canopy does not contain platforms or bleachers greater than 11 feet in height.**

**iii. A temporary greenhouse, also called a “hoophouse” or “polyhouse,” meeting the criteria stated in 5:23-3.2(d), shall not require a permit.**

**iv. Regardless of whether the tent, tensioned membrane structure, canopy, or greenhouse requires a permit, a permit shall be required for any electrical equipment, electrical wiring or mechanical equipment that would otherwise require a permit.**

5.- 9. (No change.)

**10. A construction permit is not required for an outdoor maze, unless it is six feet or greater in height or contains any electrical equipment. Outdoor mazes that do not require a permit are subject to the permitting requirements of the Uniform Fire Code (N.J.A.C. 5:70-2.7).**

**i. For the purposes of applying this requirement, an outdoor maze is an attraction that lacks a roof and is designed to disorient patrons, reduce vision, present barriers, or otherwise impede the flow of traffic and does not consist solely of living rooted plants such as corn stalks or trees, but includes mazes created from plants that have been cut and attached to an object to support them.**

#### **5:23-3.2 Matters covered; exceptions**

(a)-(c) (No change.)

(d) Rules concerning commercial farm buildings are as follows:

1.- 2. (No change.)

3. [A temporary greenhouse shall not require a construction permit if it meets the criteria stated in N.J.A.C. 5:23-3.14, the building subcode] Pre-engineered grain bins, manure handling equipment and impoundments used on a farm for the storage of agricultural commodities or by-products which are produced by or used on the farm shall not require a construction permit. However, all on-site construction work such as foundations and plumbing and electrical connections shall be subject to all requirements and inspections of any applicable subcode(s).

**4. A temporary greenhouse, also called a “hoophouse” or “polyhouse,” used exclusively for the production and storage of live plants, shall be exempt from the permit requirements of the Uniform Construction Code if it meets all the criteria of i.-iv. below:**

**i. There is no permanent anchoring system or foundation;**

**ii. There is no storage, temporary or otherwise, of solvents, fertilizers, gases, or other chemical or flammable materials;**

**iii. The structure is no wider than 31 feet and there is an unobstructed path of no greater length than 150 feet from any point to a door or fully accessible wall area, the covering of which is a material no greater than six mils (152.4 micrometers) in thickness that yields approximately four pounds of maximum impact resistance to provide egress through the wall; and**

**iv. The covering of the structure is of a material that conforms to NFPA 701.**

**v. If a temporary greenhouse contains any device subject to the electrical subcode or any mechanical equipment subject to the mechanical subcode, a permit shall be required for the device, system or fixture only. If the temporary greenhouse is connected to a potable water system, a permit shall be required for the backflow prevention devices only.**

Renumber 4.-10. as 5. -11. (No change in text.)

#### **5:23-3.14 Building subcode**

(a) (No change.)

(b) The following chapters of the building subcode are modified as follows:

1.-19. (No change.)

20. Chapter 31, Special Construction, shall be amended as follows:

i. (No change.)

ii. Section 3103.1.1 shall be deleted in its entirety and the following shall be inserted:

["(1) Temporary structures: A construction permit is required for the erection, operation or maintenance of all temporary structures (excluding tents and tensioned membrane structures) covering an area in excess of 120 square feet, including all connecting areas or spaces with a common means of egress or entrance, or which are used or intended to be used for gatherings of 10 or more persons;

(2) Tents with appurtenances: A construction permit is required for the erection, operation or maintenance of all tents or tensioned membrane structures of any size if they contain appurtenances such as platforms or electrical equipment;

(3) Tents without appurtenances: No permit is required for the erection, operation or maintenance of any tent or tensioned membrane structure without appurtenances if the tent or structure is no more than 900 square feet in area and no more than 30 feet in any dimension (excluding canopies), whether it is one unit or composed of multiple units. Tents used exclusively for recreational camping purposes shall be exempt from the above requirements.

(4) A temporary greenhouse, also called a "hoop-house" or "polyhouse," used exclusively for the production or storage of live plants, shall be exempt from the permit requirements of the Uniform Construction Code if it meets the following criteria:

(A) There is no permanent anchoring system or foundation;

(B) There is no storage, temporary or otherwise, of solvents, fertilizers, gases, or other chemical or flammable materials;

(C) The structure is no wider than 31 feet and there is an unobstructed path of no greater length than 150 feet from any point to a door or fully accessible wall area; and

(D) The covering of the structure is of a material no greater than six mils (152.4 micrometers) in thickness, conforming to NFPA 701 standard, that yields approximately four pounds of maximum impact resistance to provide egress through the wall.

(5) The provisions of the Uniform Construction Code at N.J.A.C. 5:23- 3.14(b)20ii(4) notwithstanding, if a temporary greenhouse contains any device subject to the electrical subcode or any mechanical equipment subject to the mechanical subcode, a permit shall be required for the device, system or fixture only. If the temporary greenhouse is connected to a potable water system, a permit shall be required for the backflow prevention devices only.]

**"Temporary structures, tents, tensioned membrane structures, and canopies meeting the criteria in N.J.A.C. 5:23-2.14 shall not require a permit. Greenhouses meeting the criteria in N.J.A.C. 5:23-3.2(d) shall not require a permit."**

iii. (No change.)

21.-25. (No change.)

### **5:70-2.7 Permits required**

(a) Permits shall be required and obtained from the local enforcement agency for the activities specified in this section, except where they are an integral part of a process or activity by reason of which the use is required to be registered and regulated as a life hazard use. Permits shall at all times be kept in the premises designated therein and shall at all times be subject to inspection by the fire official.

1.-2. (No change.)

3. Type 1 permit:

i.-xv. (No change.)

xvi. The erection, operation, or maintenance of any tent, tensioned membrane structure, or canopy, excluding those used for recreational camping purposes, that meets the criteria in (1) or (2) below shall require a Type 1 permit. Tents, tensioned membrane structures, or canopies greater than 16,800 square feet in area and greater than 140 feet in any dimension, whether one unit or composed of multiple units; remaining in place for more than 180 days; used or occupied between December 1 and March 31; having a permanent anchoring system or foundation; or containing platforms or bleachers greater than 11 feet in height shall be subject to the permitting requirements of the Uniform Construction Code (N.J.A.C. 5:23-2.14).

(1) The tent, tensioned membrane structure, or canopy is greater than 900 square feet and more than 30 feet in any dimension whether it is one unit or composed of multiple units, but 16,800 square feet or less in area and 140 feet or less in any dimension, whether it is one unit or composed of multiple units.

(2) The tent, tensioned membrane structure, or canopy contains platforms or bleachers 11 feet or less in height;

xvii. The erection, operation, or maintenance of any outdoor combustible maze shall require a Type 1 permit if the outdoor combustible maze is less than six feet in height and does not contain electrical equipment. Outdoor combustible mazes that are six feet or greater in height or contain electrical equipment shall be subject to the permitting requirements of N.J.A.C. 5:23-2.14.

(1) For the purposes of applying this requirement, an outdoor combustible maze is an attraction that lacks a roof and is designed to disorient patrons, reduce vision, present barriers, or otherwise impede the flow of traffic and does not consist solely of living rooted plants such as corn stalks or trees, but includes mazes created from plants that have been cut and attached to an object to support them.